

# Exhibit 6

It's disappointing that, despite Midas' representation a month ago that it would provide a proposed ESI stipulation, it has not done so. Your email does not address any of the concerns I raised. To set forth those questions again:

- It makes little sense to set the deadline that you have suggested below, which parses out ESI discovery from non-ESI discovery. We therefore propose discussing a deadline -- set after the holidays -- for the parties to substantially complete all document production.

- Midas’ analysis of Mr. Koen’s hard drive.
- When Midas will provide Rhodium with the materials it has received pursuant to third party subpoena requests in this litigation.
- Whether Midas agrees with the draft Protective Order that Ben sent over a month ago on November 1
- Midas’ response to the issues raised in Ben’s October 19 email, from almost two months ago (to which Midas responded that it would respond “shortly”)

Ashley

**KIRKLAND & ELLIS LLP**  
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[ashley.ross@kirkland.com](mailto:ashley.ross@kirkland.com)

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**From:** Lenning, Nicholas F. <Nicholas.Lenning@klgates.com>

**Sent:** Wednesday, December 14, 2022 6:58 PM

**To:** Ross, Ashley <ashley.ross@kirkland.com>

**Cc:** Pogorzelski, Henry M. <Henry.Pogorzelski@klgates.com>; Michael Smith <Michael.Smith@Solidcounsel.com>; Neufeld, Courtney A. <Courtney.Neufeld@klgates.com>; Nagamine, Ruby A. <Ruby.Nagamine@klgates.com>; Cutri, Gianni <gcutri@kirkland.com>; Herbert, Benjamin Allen <benjamin.herbert@kirkland.com>; Morrill, Drew <drew.morrill@kirkland.com>; Li, Kat <kat.li@kirkland.com>

**Subject:** RE: Midas v. Rhodium - Defendants' document productions

**This message is from an EXTERNAL SENDER**

Be cautious, particularly with links and attachments.

Ashley,

We have not received a response to the below. Please either confirm, provide a counter-proposal, or provide Defendants' availability to meet and confer this week. Thank you.

Best,

Nick Lenning  
K&L Gates LLP  
(206) 370-6685  
He/Him/His

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**From:** Lenning, Nicholas F.

**Sent:** Thursday, December 08, 2022 9:14 AM

**To:** 'Ross, Ashley' <[ashley.ross@kirkland.com](mailto:ashley.ross@kirkland.com)>

**Cc:** Pogorzelski, Henry M. <[Henry.Pogorzelski@klgates.com](mailto:Henry.Pogorzelski@klgates.com)>; Michael Smith <[Michael.Smith@Solidcounsel.com](mailto:Michael.Smith@Solidcounsel.com)>; Neufeld, Courtney A. <[Courtney.Neufeld@klgates.com](mailto:Courtney.Neufeld@klgates.com)>; Nagamine, Ruby A. <[Ruby.Nagamine@klgates.com](mailto:Ruby.Nagamine@klgates.com)>; Cutri, Gianni <[gcutri@kirkland.com](mailto:gcutri@kirkland.com)>; Herbert, Benjamin Allen <[benjamin.herbert@kirkland.com](mailto:benjamin.herbert@kirkland.com)>; Morrill, Drew <[drew.morrill@kirkland.com](mailto:drew.morrill@kirkland.com)>; Li, Kat <[kat.li@kirkland.com](mailto:kat.li@kirkland.com)>

**Subject:** RE: Midas v. Rhodium - Defendants' document productions

Ashley,

Midas proposes January 6, 2023 as the mutual deadline for substantial completion of non-email document productions and privilege logs. Please confirm Defendants agree. If Defendants do not agree, please send your counter-proposal and provide a time to meet and confer.

Best,

Nick Lenning  
K&L Gates LLP  
(206) 370-6685  
He/Him/His

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**From:** Ross, Ashley <[ashley.ross@kirkland.com](mailto:ashley.ross@kirkland.com)>  
**Sent:** Thursday, December 01, 2022 11:31 AM  
**To:** Lenning, Nicholas F. <[Nicholas.Lenning@klgates.com](mailto:Nicholas.Lenning@klgates.com)>  
**Cc:** Pogorzelski, Henry M. <[Henry.Pogorzelski@klgates.com](mailto:Henry.Pogorzelski@klgates.com)>; Michael Smith <[Michael.Smith@Solidcounsel.com](mailto:Michael.Smith@Solidcounsel.com)>; Neufeld, Courtney A. <[Courtney.Neufeld@klgates.com](mailto:Courtney.Neufeld@klgates.com)>; Nagamine, Ruby A. <[Ruby.Nagamine@klgates.com](mailto:Ruby.Nagamine@klgates.com)>; Cutri, Gianni <[gcutri@kirkland.com](mailto:gcutri@kirkland.com)>; Herbert, Benjamin Allen <[benjamin.herbert@kirkland.com](mailto:benjamin.herbert@kirkland.com)>; Morrill, Drew <[drew.morrill@kirkland.com](mailto:drew.morrill@kirkland.com)>; Li, Kat <[kat.li@kirkland.com](mailto:kat.li@kirkland.com)>  
**Subject:** RE: Midas v. Rhodium - Defendants' document productions

Nick

Thank you for your follow-up email. Defendants note that this is the second time that Midas has made demonstrably false accusations about Defendants' discovery responses and obligations without taking the time to verify whether Midas' accusations have merit. We once again request that Midas refrain from making such unfounded accusations. Defendants are diligently working to identify, gather, and produce, additional materials responsive to Midas's requests for production.

It is not lost on Defendants that Midas has similarly produced very little responsive material in this action, producing only a handful of materials outside of documents Midas previously produced in the Immersion litigation, and has provided no materials received from third-parties in response to subpoenas. To the extent Midas has received such third-party materials, please provide them to us immediately, or, if you have received such materials and intend to withhold them, please provide your basis for doing so.

In regard to your request that we “provide a date certain when Defendants, including the Individual Defendants, intend to substantially complete their document productions,” as noted on the last two meet and confers, the parties should come to a mutual agreement on this and the privilege log. The parties are still actively engaged in negotiations regarding search terms and custodians for ESI collection, as well as on an overarching ESI search protocol, and as such the scope of necessary remaining discovery remains unclear. On our last call on ESI issues, we had asked that you provide a full ESI proposal, but have not received it. We therefore propose that Midas provide the ESI proposal that was discussed on our November 10 call by tomorrow so that we may consider it in advance of a call mid-next week to discuss. Please confirm your agreement and provide your availability.

Best,

Ashley

### Ashley Ross

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**From:** Lenning, Nicholas F. <[Nicholas.Lenning@klgates.com](mailto:Nicholas.Lenning@klgates.com)>

**Sent:** Monday, November 21, 2022 7:01 PM

**To:** Cutri, Gianni <[gcutri@kirkland.com](mailto:gcutri@kirkland.com)>; Ross, Ashley <[ashley.ross@kirkland.com](mailto:ashley.ross@kirkland.com)>; Herbert, Benjamin Allen <[benjamin.herbert@kirkland.com](mailto:benjamin.herbert@kirkland.com)>; Morrill, Drew <[drew.morrill@kirkland.com](mailto:drew.morrill@kirkland.com)>; Li, Kat <[kat.li@kirkland.com](mailto:kat.li@kirkland.com)>

**Cc:** Pogorzelski, Henry M. <[Henry.Pogorzelski@klgates.com](mailto:Henry.Pogorzelski@klgates.com)>; Michael Smith <[Michael.Smith@Solidcounsel.com](mailto:Michael.Smith@Solidcounsel.com)>; Neufeld, Courtney A. <[Courtney.Neufeld@klgates.com](mailto:Courtney.Neufeld@klgates.com)>; Nagamine, Ruby A. <[Ruby.Nagamine@klgates.com](mailto:Ruby.Nagamine@klgates.com)>

**Subject:** RE: Midas v. Rhodium - Defendants' document productions

Counsel,

I wanted to correct the number of documents as my prior email was inaccurate. The correct number is 30, not 13, excluding public custodian documents and the Christiaan Best declarations.

Apologies for the error which I just discovered. The points in my email, however, stand. Please let us know when Defendants intend to produce documents in response to Midas' discovery requests and substantially complete their production. Thank you.

Best,

Nick Lenning  
K&L Gates LLP  
(206) 370-6685  
He/Him/His

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**From:** Lenning, Nicholas F.

**Sent:** Saturday, November 19, 2022 6:57 AM

**To:** Cutri, Gianni <[gcutri@kirkland.com](mailto:gcutri@kirkland.com)>; Ross, Ashley <[ashley.ross@kirkland.com](mailto:ashley.ross@kirkland.com)>; 'Herbert, Benjamin Allen' <[benjamin.herbert@kirkland.com](mailto:benjamin.herbert@kirkland.com)>; Morrill, Drew <[drew.morrill@kirkland.com](mailto:drew.morrill@kirkland.com)>; Li, Kat <[kat.li@kirkland.com](mailto:kat.li@kirkland.com)>

**Subject:** Midas v. Rhodium - Defendants' document productions

Counsel,

We write concerning Defendants' document productions. To date, Defendants have produced only 13 documents that are not either prior art or captures of publicly available materials. Rhodium has produced no such documents since its initial technical document production and the Individual Defendants have produced no documents at all. Defendants have produced no documents in response to Midas' RFPs served September 6 or the ROGs to which Defendants gave a Rule 33(d) response on October 6.

Defendants' delay in producing documents responsive to discovery requests is prejudicial to Midas. We ask that Defendants please provide a date certain when Defendants, including the Individual Defendants, intend to substantially complete their document productions.

Best,

Nick Lenning



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